

REMARKS

This responds to the Office Action dated June 29, 2006. Claims 1 and 18 are amended, and claim 32 is added; as a result, claims 1-32 are now pending in this application. Support for the amendments is found generally within the specification (see e.g., page 8 lines 1-14).

§103 Rejection of the Claims

1. Claims 1-10, 16-23, and 28-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Amely-Velez (U.S. 2002/0107550) in view of Bocek et al. (U.S. Patent No. 5,578,063, “Bocek”), and further in view of Goedeke (U.S. Patent No. 5,904,708) as discussed above and as applied in the previous Office Action dated January 12, 2006. Applicant respectfully traverses the rejection. Applicant respectfully submits that the Office Action fails to establish proper *prima facie* obviousness because all elements recited or incorporated in these rejected claims are not taught or suggested in the proposed combination of Amely-Velez, Bocek and Goedeke.

Regarding claims 1-10, and 16-17:

Applicant cannot find in the proposed combination of Amely-Velez, Bocek and Goedeke any disclosure, teaching, or suggestion of, among other things, a system including

a controller circuit ... operable to read a clock circuit value as a timestamp representative of absolute time, the timestamp indicating when the detected event occurred within a window of absolute time that rolls over every few minutes, and the controller circuit also operable to store the at least one marker with the timestamp in the event marker buffer of the memory,

as presently recited in claim 1 and incorporated into claims 2-10 and 16-17.

The present application teaches that absolute time refers to the controller reading and storing a clock circuit value in contrast to a controller calculating a relative time value,¹ and that relative timing complicates the task of reconstructing information for a display while preserving the correct timing relationship among data and marker.² By contrast, Amely-Velez apparently

¹ Patent application, pg. 7 line 28 – pg. 8 line 4.

² Id., pg. 2 lines 18 – 23.

refers to timing [events] with respect to each other³ and Bocek apparently refers to markers being aligned in time relation to their respective electrograms and hence to each other.⁴ Goedeke apparently refers to a date and time event marker stored with the relative physiologic data set,⁵ and does not refer to storing events in an event marker buffer with a timestamp that rolls over every few minutes. As explained in the present patent application, using a counter that rolls over every few minutes permits the absolute time to be represented by less bits, such that storing such data requires less space in a miniaturized implantable device.

Regarding claims 18-23, 28-31:

Applicant cannot find in the proposed combination of Amely-Velez and Bocek any disclosure of, among other things, a method including

sensing electrical activity of a heart using an implantable device; detecting events associated with the electrical activity; storing event markers representing the events in a memory, each event marker including a timestamp of when a corresponding event occurred, the timestamp representative of an absolute time referenced within a window of time that rolls over every few minutes,

as presently recited in claim 18 and incorporated into claims 19-23, and 28-31, and as discussed above.

In sum, Applicant respectfully requests reconsideration and allowance of claims 1-10, 16-23, and 28-31.

2. Claims 11-15 and 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Amely-Velez (U.S. 2002/0107550) in view of Bocek et al. (U.S. Patent No. 5,578,063) and Owen et al. (U.S. Patent No. 6,427,083), and further in view of Goedeke (U.S. Patent No. 5,904,708) as applied to claims 1-10, 16-23, and 28-31 above and as discussed in the previous Office Action dated January 12, 2006. Applicant respectfully traverses the rejection.

Claims 11-15 ultimately depend on base claim 1 and claims 24-27 ultimately depend on base claim 18. For the reasons discussed above, Applicant believes base claims 1 and 18 to be allowable at least for the reason that the proposed combination of Amely-Velez, Bocek and Goedeke does not teach or suggest all of the elements of the base claims.

³ Amely-Velez, col. 1 ¶ 0003.

⁴ Bocek, col. 10 lines 35-37.

⁵ Goedeke, col. 14 lines 2-3.

Additionally, the Office Action uses four references in the rejection of the claims. This is highly suggestive that the Office Action is using Applicant's structure as a template and selecting individual elements from each reference in an impermissible hindsight reconstruction of Applicant's claimed invention from the Applicant's own disclosure. Further, the use of individual elements from four references suggests that the Office Action is impermissibly merely considering whether the individual differences are obvious, not the claimed invention as a whole.

In sum, Applicant respectfully requests reconsideration and allowance of claims 11-15 and 24-27.

New Claim

Claim 32 is new. Support for the claim is found generally within the specification (see e.g., page 8 lines 1-14). Applicant respectfully requests entry of claim 32 for examination.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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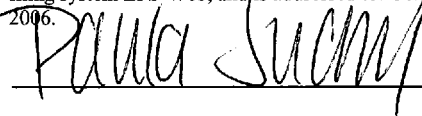
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By


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29 day of August 2006.



Name


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